



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

P

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,092	11/19/2003	Steve Wang	1315.68260	7286

24978 7590 03/23/2006

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
----------	--------------

3641

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,092	Applicant(s) WANG, STEVE	
	Examiner Bret C. Hayes	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 28 DEC 05, with respect to claims 12 – 15 have been fully considered but they are not persuasive.
2. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971). In this case, whether Lichvar teaches anything with respect to the sleeve being part of or supporting the door is irrelevant as it is clear from the Figures that the sleeve is a part of and supporting the door because of its location.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,819,582 to Lichvar.
3. Re – claim 12, Lichvar discloses the claimed invention including a kennel, best seen in Fig. 1, for example, comprising: a plurality of side panels, see same, configured for coupling to

Art Unit: 3641

one another, via means 36, for example; and a gate panel, as including the open door in Fig. 1, for example, comprising: a pair of ends 6, each of said ends configured for connecting to said side panels, as via 36 again, for example, to form an enclosure – the ‘kennel’ as previously claimed – a doorway, best seen in Fig. 6, for example, positioned between said ends and defined by at least one doorway frame member, 12, for example, having at least one boss, the lower portion of the upper member 12 and the upper portion of the lower member 12, for example, formed therewith, and a door, 22 et al., for example, configured for opening and closing said doorway and having at least one door frame member 27 directly and rotatably attached to said boss of said doorway frame member, as set forth at col. 3, lines 40 – 50, for example, the one or more barrier panels includes the panel to the right of the door as in Fig. 1, for example.

4. Re – claim 13, Lichvar discloses the claimed invention as applied to claim 12 above and wherein the one or more barrier panels each have an end connected to said doorway and another end configured for connecting to a side panel, as best seen in Fig.1, for example.

5. Re – claim 14, Lichvar further discloses wherein each of the one or more barrier panels comprises a pair of vertical frame members, similar to 6 used throughout, a pair of horizontal frame members, 4 used throughout, so connected, and a wire cloth* 14 for example, so connected. Lichvar discloses a welded wire mesh, which, in this instance, can be interpreted as encompassing a wire cloth as claimed, since the terms “cloth” and “wire” tend to be mutually exclusive and the equivalence of “mesh” and “cloth” would be inherent.

6. Re – claim 15, Lichvar discloses the claimed invention further wherein said door includes a secure fitting 26, for example, directly connecting said door frame member 27 to said doorway frame member 12.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lichvar.

9. Re – claim 16, Lichvar discloses the invention substantially as claimed as applied above except for the secure fitting 26 encircling at least a portion of the doorway frame member 12 to facilitate rotation. In fact, Lichvar discloses exactly the opposite arrangement, which would constitute a mere reversal of the elements with respect to structure and related function. It would have been obvious to one having ordinary skill in the art at the time the invention was made to so reverse the elements, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Allowable Subject Matter

10. Claims 1 – 9, 11, 18 – 20 are allowed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3641

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (571) 272 – 6902 or email address bret.hayes@uspto.gov. The examiner can normally be reached Monday through Thursday from 5:30 am to 4:00 pm, Eastern Standard Time.

The Central FAX Number is **571-273-8300**.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached at (571) 272 – 6873.

bh

20-Mar-06


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER